

Frequently Asked Questions on the Proposed BAT Regulation Revisions

Governor Hogan recently announced that it is his intention to repeal the requirement to install Best Available Technology (BAT) units outside of the Critical Area (all land within 1,000 feet of Maryland's tidal waters and tidal wetlands including the Chesapeake Bay, Atlantic Coastal Bays and their tributaries). This revision must still undergo the normal regulatory process and may require a public hearing. Understandably, this action is raising a number of questions for property owners who have installed BAT units or are intending to install BAT units. Answers are provided to a few of these questions below.

I live outside the Critical Area and built a house recently. I had to install a Best Available Technology (BAT) unit at my expense. Can I have it removed now and, if so, what is the process for doing that?

If the installation of your BAT unit was not paid for through the Bay Restoration Fund (BRF), you certainly have the option of replacing it with a conventional two-compartment septic tank. To do so, you would go through the same permit process that was followed for the installation of your existing system. Consider the following though before taking this route:

1. While a BAT unit outside of the Critical Area may provide minimal benefit to the Chesapeake Bay, it is a great boon to your septic system and the groundwater underlying your property. The liquid leaving a BAT unit is significantly cleaner than what comes out of a standard septic tank. That means the soils under the absorptive part of your system (trenches, mound,...) are less likely to clog over time. A system that might last 15 to 20 years on a septic tank may last indefinitely on a properly maintained BAT unit. Ultimately, that is a savings of money and inconvenience to you. It also means less nitrates get into your groundwater which can impact drinking water quality for you or your neighbors.
2. There is an expense associated with removing a BAT unit and installing a septic tank. The money spent on this process would likely keep a BAT unit in good working order for decades.

If you are into green or clean or just like holding onto your money, our advice would be to keep the BAT.

I replaced my septic tank with a BAT unit using a BRF grant. What if I want to switch back to a septic tank?

Because your unit was installed using State moneys and you signed an easement agreement that was subsequently recorded in the Office of Land Records, you have a much deeper commitment to sticking with your BAT unit. This should not be viewed as a bad thing. The State paid for the installation and initial operation and maintenance (O&M) for an

“appliance” that, properly maintained, should extend the life of your septic system well beyond what would normally be expected. Since everything but the electrical cost (usually a few dollars a month) was covered for the first five years, you will really only be out the cost of operating and maintaining it from the sixth year on. Typically, these yearly O&M costs are around \$200. A new absorptive bed (trenches, mound, etc.) will probably cost anywhere from \$4,000 to well over \$20,000! Other relevant reasons for keeping a BAT unit can be found in the answer to the first question above.

If you really feel strongly about replacing the BAT unit, you would want to consult with an attorney about the easement agreement. Extinguishing this agreement would require concurrence of whoever signed it for the State. This could likely not happen without reimbursing the BRF with at least a prorated amount of the original grant award. This has yet to be worked out and really would not make sense financially.

I just started the process of having my house built and have a septic permit issued which specifies the installation of a BAT unit. Is it too late to change that?

Until the new regulation has actually gone through the legislative process, changing your permit is not an option. Typically, a proposed regulation would take at least three months and probably longer to become effective. It is unlikely that the new BAT regulation will be final until at least early November and that could get pushed back into next year. An applicant can change a septic permit after it has been issued. It would just have to go back through the issuance process. If your system has not been installed as of the time the new regulation becomes effective, you or your installer can visit the Health Department and make the appropriate changes. If the proper two-compartment tank is specified, your permit should be re-issued.

My septic system failed and the Health Department told me that I must replace my septic tank with a BAT unit. How will the new regulation impact me?

If the BAT unit was necessary because of site-specific conditions, it will remain a requirement. Some properties just do not meet current regulatory requirements. The soils may be too slow or too shallow (relative to underlying rock or water tables) or there may be very limited repair area or setback requirements from wells, surface water, or other features cannot be met. In those cases, it is critical to use every tool available to ensure that a system will function and last. The BAT unit is one of those tools. A BAT unit discharges effluent that is significantly cleaner and is loaded with dissolved oxygen to the absorptive portion of the system (trenches, mound,...). This helps to keep that part of the system going. As stated in earlier responses, a BAT unit should be viewed as a positive feature. Without it, your new system would be much more likely to prematurely fail. If BRF funds are available, they may be used to cover the cost of this part of the repair especially in cases of financial hardship.